

SITE-SPECIFIC SUPERFUND MEMORANDUM OF AGREEMENT
THE ASHLAND/NORTHERN STATES POWER LAKEFRONT SUPERFUND SITE

1. PARTIES

This Site-Specific Superfund Memorandum of Agreement (SMOA) is entered into by and between the following governmental parties who sign the Site-Specific SMOA:

- The United States Environmental Protection Agency (EPA) Region 5, Superfund Division
- The Wisconsin Department of Natural Resources (WDNR)

2. PURPOSE

The general purpose of this Site-Specific SMOA is to create a structure and a process within which each Party may effectively and efficiently coordinate its interests and concerns related to the work at the Site with those of the other Party, while assuring the responsibilities of each Party are fulfilled to the maximum extent possible to derive maximum net environmental benefit, optimize federal and state expertise and available resources, and to avoid unnecessary duplication of costs and efforts. This Site-Specific SMOA will become an appendix to the Superfund State Contract or Cooperative Agreement.

The specific purposes of this Agreement are the following:

1. To clarify for each Party its relationships with the other Party and its responsibilities for coordination of Site activities.
2. To establish primary contacts for each Party.
3. To designate which agency will be the lead agency and support agency for the various technical, legal, and public involvement tasks defined in the following paragraphs.
4. To oversee completion of the Remedial Investigation and Feasibility Study (RI/FS) by the potentially responsible party (PRP) signatory to the Administrative Order on Consent (AOC), U.S. EPA Docket No. V-W-04-C-764, and any appropriate early actions taken by the PRP. In doing so, the Parties will ascertain the nature and extent of contamination at, from, and to the Site, and ensure the implementation of an effective cleanup of the Site in a manner consistent with the requirements of CERCLA, 42 U.S.C. §§ 9601 et. seq., and the National Contingency Plan (NCP), 40 C.F.R. Part 300.

5. To perform public involvement activities.
6. To provide procedures to resolve any conflicts between EPA and WDNR regarding implementation of their respective Lead and Support Agency roles for the Site;

3. AUTHORITY AND APPLICABILITY

1. Each Party has authority to enter into this Site-Specific SMOA. EPA and WDNR have express statutory authority to respond to releases of hazardous substances related to the Site.
2. This Site-Specific SMOA is effective upon signature by both EPA and WDNR. Any Party may withdraw from this Site-Specific SMOA upon thirty (30) days written notice. This Site-Specific SMOA will be regularly reviewed by the Parties and may be modified by written agreement by all Parties.
3. This Site-Specific SMOA is not legally binding.
4. If at any time a conflict arises between the language of the Site-Specific SMOA and the language contained in a Cooperative Agreement, Superfund State Contract, or an enforcement agreement or order, the Cooperative Agreement, Superfund State Contract, or enforcement agreement or order language shall control.

4. EPA/WDNR LEAD AGENCY AND SUPPORT AGENCY ACTIVITIES

1. EPA is designated RI/FS Lead Agency for the oversight of the RI/FS. WDNR is designated RI/FS Support Agency for the oversight of the RI/FS. EPA is designated Public Involvement Support Agency for performance of public involvement activities. WDNR is designated Public Involvement Lead Agency for performance of public involvement activities.
2. The RI/FS Lead Agency maintains the primary responsibility for overseeing the PRP's work as defined in the AOC. The RI/FS Support Agency plays a review and concurrence role and provides specific information as necessary to the RI/FS Lead Agency (e.g., identification of potential applicable or relevant and appropriate requirements). The Public Involvement Lead Agency maintains the primary responsibility for developing and implementing the Community Relations Plan, conducting community interviews, providing notice for public meetings, preparing fact sheets for the public, maintaining a site mailing list and information repositories, and other public involvement activities as outlined in the community relations plan. The Public Involvement Support Agency reviews and concurs on

public involvement materials and strategies as outlined in the Community Relations Plan. In addition, EPA will take the lead in preparing the Proposed Plan, the Administrative Record, as well as associated public comment and hearing tasks with the review and concurrence of WDNR. Media relations and information requests are a joint activity of both Parties.

3. EPA has used its CERCLA Section 104 authority to issue an AOC for PRPs to voluntarily perform a remedial investigation/feasibility study. Any interim action work will be pursuant to orders, consensual or unilateral, issued pursuant to Section 106, and any agreement to perform CERCLA remedial action will be embodied in a Consent Decree (CD) entered in the Federal District Court of Wisconsin in accordance with Sections 104 and 122 of CERCLA.

5. COMMUNICATION / COORDINATION / CONTACTS

Every Party will maintain communication with other Parties through the following contacts:

For EPA:

Primary Contact

Sharon Jaffess, Remedial Project Manager
Superfund Division
Remedial Response Branch #1
Remedial Response Section #3
77 West Jackson Blvd.
SR-6J
Chicago, IL 60604
312-353-0536
jaffess.sharon@epa.gov

Legal Contact

Craig Melodia, Assistant Regional Counsel
Office of Regional Counsel
77 West Jackson Blvd.
C-13J
Chicago, IL 60604
312-353-8870
melodia.craig@epa.gov

Public Involvement / Press Contact

Briana Bill, Community Involvement Coordinator
Office of Public Affairs (P-19J)

77 West Jackson Blvd.
Chicago, IL 60604
312-353-6646
bill.briana@epa.gov

Press Contact (Alternate)

Mick Hans, Press Officer
Office of Public Affairs (P-19J)
77 West Jackson Blvd.
Chicago, IL 60604
312-353-5050
hans.mick@epag.gov

For WDNR:

Primary Contact

James Dunn, Project Coordinator
Wisconsin Department of Natural Resources
810 West Maple Street
Spooner, WI 54801
715-635-4049
James.Dunn@dnr.state.wi.us

Legal Contact

Deborah Johnson, Staff Attorney
Wisconsin Department of Natural Resources
101 South Webster Street LS/5
P.O. Box 7921
Madison, WI 53707-7921
608-267-0846
Deborah.Johnson@dnr.state.wi.us

Public Involvement / Press Contact

John Robinson, Northern Region Team Supervisor
Wisconsin Department of Natural Resources
107 Sutliff Avenue
Rhineland, WI 54501
715-365-8976
John.Robinson@dnr.state.wi.us

6. RESPONSIBILITIES OF LEAD AND SUPPORT AGENCIES

1. Responsibilities of RI/FS Lead Agency

1. Oversee the PRP's work as specified in the AOC, Statement Of Work (SOW), and RI/FS Work Plan in accordance with the designated schedules;
2. Ensure compliance with the AOC or enforce stipulated penalties;
3. Communicate with the Support Agency and ensure that the PRP provides the Support Agency with all major work products in a timely manner so the Support Agency may provide comments to the Lead Agency;
4. Consult with the Support Agency on remedy selection and other significant issues;
5. Carry out the designated responsibilities in accordance with the time frames mutually agreed upon by both parties (and specified in the site-specific cooperative agreement).
6. Establish the Administrative Record for Selection of Response Action in accordance with the NCP, Section 300.800.

B. Responsibilities of RI/FS Support Agency

1. To review and comment on major work products submitted by the Lead Agency or PRP (the PRP is required to submit all work products to the Support Agency simultaneously to the Lead and Support Agencies) within a timely manner (thirty calendar days);
2. To communicate with the PRPs only through the Lead Agency or after providing notice to the Lead Agency that the Support Agency intends to communicate directly with the PRP regarding the Site.

C. Responsibilities of Lead Public Involvement Agency

1. Conduct community interviews;
2. Develop a Community Relations Plan and provide it to the Support Agency for review and comment;
3. Implement the Community Relations Plan;
4. Maintain site mailing list;
5. Coordinate public information meetings;
6. Provide public notice for public information meetings;
7. Draft fact sheets and outreach materials;
8. Maintain local information repositories;
9. Maintain media relations jointly with the Support Agency;
10. Process information requests jointly with the Support Agency;
11. Provide public involvement records to EPA for inclusion into the Administrative Record, in compliance with the record keeping requirements of the NCP, 40 CFR 300.800 *et. seq.*

D. Responsibilities of Public Involvement Support Agency

1. Assist Lead Agency in community interviews and provide comments on the Community Relations Plan;
2. Provide comments on draft fact sheets and outreach materials in a timely manner to the Lead Agency;
3. Coordinate all outreach activities with the Lead Agency;
4. Maintain media relations jointly with the Lead Agency;
5. Assist the Lead Agency in maintaining the information repositories;
6. Conduct all public notice and hearing activities associated with the roll-out of the Proposed Plan.

7. MODIFICATION

This Site-Specific SMOA may be modified from time to time. Any Party shall propose any modification to the other Party in writing. Each Party is responsible for notice to the other Party of all proposed and actual modification to its statutory or regulatory authority, forms, procedures, or priorities that could impact activities conducted under the terms of this Site-Specific SMOA.

1. GENERAL PROVISIONS

1. Nothing in this Site-Specific SMOA is intended to either create any right in or grant any cause of action to any person not a Party to this Site-Specific SMOA or to release or waive any claim, cause of action, demand, or defense in law or equity that any Party to this Site-Specific SMOA may have against any person(s) or entity that is or is not a party to this Site-Specific SMOA. This Site-Specific SMOA is not a fund obligating document. Any contribution of funds from PRPs will be handled in accordance with applicable law and procedures.
2. The Parties recognize that each Party reserves all rights, powers, and remedies now or hereafter existing in law or in equity, by statute, treaty, or otherwise. Nothing in this Site-Specific SMOA is or shall be construed to be a waiver of the sovereignty of a signatory Party. This Site-Specific SMOA is intended solely for the purposes of facilitating inter-governmental cooperation between the Parties, and creates no rights in third parties or the right to judicial review.
3. EPA and WDNR will provide each other advance notice of any contemplated response enforcement or cost recovery action concerning the Site, and coordinate with and assist each other in such actions as appropriate.
4. Upon written request by EPA, WDNR will provide comments on technical documents within thirty (30) calendar days of receipt of such a request.

5. Nothing in this MOA waives or supersedes any state right under CERCLA regarding ARARs, ROD concurrence, and consent decree participation.

8. DISPUTE RESOLUTION

1. The Parties will use their best efforts to resolve disagreements informally.
2. If the Parties do not reach agreement through informal means, the Parties will use the following dispute resolution process:
 1. Any unresolved technical dispute will be promptly elevated to the first-line managers of the EPA RPM and WDNR Project Manager.
 2. If the Parties continue to disagree, the matter will be elevated to the next level of management, EPA's Branch Chief, and the WDNR Remediation & Redevelopment Program's Policy & Technical Resources Section Chief, who will work together to resolve the matter or decide the appropriate forum or means of ultimate resolution.

9. EFFECT & DURATION OF AGREEMENT

1. This Site-Specific SMOA shall take effect upon signature by EPA and WDNR.
2. This Site-Specific SMOA will remain in effect until signature of the Record of Decision or until terminated by mutual agreement of the Parties; provided however, that either Party to this MOA may terminate it by providing thirty (30) days written notice to the other Party.

12. THE UNDERSIGNED PARTIES enter into this MOA between the EPA and WDNR.

Wisconsin Department of Natural Resources

By: Signed Scott Hassett Date: 5-17-04

P. Scott Hassett, Secretary

United States Environmental Protection Agency
Region 5

By: Signed Richard C. Karl for Bharat Mathur Date: 6-30-04

Bharat Mathur, Acting Regional Administrator